(2)

(1)

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION No. 2017 /2001

PETITIONERS : 1. SARDAR ARJUN SINGH SIDDHU
S/O. LATE SARDAR KUNWARJEET SINGH SIDDHU, AGED ABOUT 17 YEARS - MINOR
R/O. MOHALLA - DEVI GANJ ROAD, AMBIKAPUR , DISTRICT - SURGUJA (C.G.)
THROUGH NEXT FRIEND AND MOTHER SMT. JYOTI SIDDHU
W/O LATE SARDAR KUAWARJEET SINGH SIDDHU AGED ABOUT 40 YEARS - PETITIONER NO. 2

P.R. No. 1906 [01]
Presented by Shri Mahaveer Agrawal
dated 14.9.01

2. SMT. JYOTI SIDDHU W/O LATE SARDAR KUAWARJEET SINGH SIDDHU AGED ABOUT 40 YEARS
R/O. MOHALLA - DEVI GANJ ROAD, AMBIKAPUR , DISTRICT - SURGUJA (C.G.)

उपायुक्त, बिलासपुर तहसील बार

VERSUS

RESPONDENTS : 1. THE STATE OF CHHATTISGARH
THROUGH THE CHIEF SECRETARY
GOVT. OF CHHATTISGARH
AT RAIPUR (C.G.)

2. THE STATE OF MADHYA PRADESH
THROUGH THE CHIEF SECRETARY
GOVT. OF MADHYA PRADESH
VALLABHA BHAWAN, BHOPAL
(MADHYA PRADESH)

RECEIVED COPY.
14.9.01
CLERK TO A.G. BILASPUR

2.

WRIT PETITION UNDER ARTICLES 226/227 CONSTITUTION OF INDIA FOR THE ISSUANCE OF APPROPRIATE WRIT DIRECTION AND/OR ORDER -

(22)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक W.P.NO.2017 सन् 2001

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	01.5.2002 Shri Manoj Mishra Counsel for the petitioners. Shri Sanjay K. Agrawal, Deputy Advocate General for the State/Respondents.' Heard. By this writ petition filed under Article 226/227 of the Constitution of India, petitioners pray for issuance of appropriate writ, order or direction to the respondents to pay compensation of Rs.2,50,000/- to the petitioners for the death of each victim in anti-Sikh Riots occurred in the year 1984 with interest thereon from the date of incident. Petitioners further pray to direct the respondents to pay the damages for destroying house of the victims and the Motor Cycle of the victims with interest. (2) Learned counsel for the petitioners submits that the incident took place in the house of the victims at Mohalla	

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मामला क्रमांक ..... -2- **सन्** 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

Babupara of Ambikapur, Distt. Sarguja in which the father of petitioner No.1namely Sardar Kunwarjeet Singh Siddhu and grand father namely Sardar Jaswant Singh Siddhu and grand mother Smt. Ramindra Siddhu were killed in Anti Sikh Riots and there was arson and looting in which the house of the deceased was ransacked and motor-cycle was damaged. It is further submitted that the erstwhile State of Madhya Pradesh had given the following amounts of compensation to the petitioners.

i. In the year 1984	Rs. 60,000/-
ii. On 07.10.1998	Rs. 90,000/-
iii. On 08.12.1998	Rs.1,50,000/-

So far the petitioners have received the compensation of Rs.1,00,000/- in all, on account of death of each victim. Learned counsel for the petitioners submits that thoughthe petitioners had made several representations before various

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मामला क्रमांक 3 सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

authorities for enhancement of amount of compensation, ~~xxxxxxx~~ no needful was done.

(3) Learned counsel for the petitioner submits that in Civil Writ Petition No. 1429 of 1996 (Bhajan Kaur –v- Delhi Administration) reported in 1996 AIHC 5644, the Delhi High Court directed payment of Rs.2 lakhs with interest and also made a general direction that this should apply to other similar cases. He has drawn attention to para 10 of the said Judgment which reads as under:

"Article 21 is the Nation's commitment to bring every individual or group of persons within its protective fold. This nation belongs to members of all the communities. They are equal members of the Indian Society, Equality before law and equal protection of laws is ensured to them by Article 14 of the Constitution to them. None is to be favoured or discredited. The conduct of any person or group of persons has to be controlled by the State for the lofty purpose enshrined in Article 21 of the Constitution. It is the duty of the State to create a climate where the cleavage between members of the society belonging to different faiths, caste and

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मामला क्रमांक ..... **सन्** 200

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

creed are eradicated. The State must act in time so that the precious lives of the people are not destroyed or threatened. Otherwise, article 21 will remain a paper guarantee. Time is long overdue for adopting measures that have more than a hortatory effect in enforcing Article 21 of the Constitution. The State cannot adopt a "do nothing attidue". Like disease prevention, the State must take every precaution, measure and initiative to prevent terrorem populi of the magnitude represented by 1984 riots and in the event of an out-break of riot it must act swiftly to curb the same and not allow precious time to slip by, as any inaction or passivity on its part can result in loss of precious life and liberty of individuals amounting to violation and negation of Article 21 of the Constitution. The State has to enforce minimum standards of civilized behaviour of its citizens so that the life, liberty, dignity and worth of an individual is protected and preserved and is not jeopardized or endangered. If it is not able to do all that then it cannot escape the liability to pay adequate compensation to the family of the persons killed during riots as his or her life has been extinguished in clear violation of article 21 of the Constitution which mandates that life cannot be taken away except according to the procedure established by law."

(Emphasis supplied)

GRPRJ— —50,000.

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मामला क्रमांक ..... **सन्** 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

(4) The matter came for consideration before the Supreme Court in case of *S.S. Ahluwalia –v- Union of India and other reported in AIR 2001 S.C. 1309* wherein it has been noted as under:

"In the wake of assassination of Smt. Indira Gandhi on October 31, 1984 there were several killings of Sikhs in Delhi and other parts of the Country between October 31, 1984 till November 1984 which involved arson, looting and murder. A committee was constituted headed by Justice R.N. Mishra of this Court which made an inquiry and reported that Sikhs killed in those riots were 3874 in Delhi, 127 in Kanpur and 69 in Bokaro. Civil Writ Petition No.1429'1996 titled Bhajan Kaur –v- Delhi Administration (1996 AIHC 5644) was filed in the High Court of Delhi for paying compensation to the dependents of those killed in the riots after the assassination of Smt. Indira Gandhi as the State had a duty to protect the life of ;its citizens and the State ought to pay compensation thereof. The High Court of Delhi by its order dated July 5, 1996 held that in the expanded meaning attributed to Article

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मामला क्रमांक ..... **सन्** 200

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

21 of the Constitution it is the duty of the State to create a climate where members of the Society belonging to different faiths, cast and creed live together and, therefore, the State has a duty to protect their life, liberty, dignity and worth of an individual which should not be jeopardized or endangered. If in any circumstance the State is not able to do so, then it cannot escape the liability to pay compensation to the family of the person killed during riots as his or her life has been extinguished in clear violation of Article 21 of the Constitution. The High Court, therefore, directed payment of a sum of Rs.2 lakhs with interest and also made a general direction that this direction should apply to similar cases also. Thereafter, this writ petition has been filed seeking to extend the benefit of the Judgment in Bhajan Kaur V. Delhi Administration (supra) to the entire country and for certain other reliefs. It is brought to our notice that the number of persons killed in each of the State is as under:

Nos. Killed	State
3874	Delhi
1	Rajasthan
3	Orissa

Issued on ... Date 10/6/02 Sd/-

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मामला क्रमांक.....**सन्** 200

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	106	Haryana
	2	Himachal Pradesh
	120	Bihar
	98	M.P.
	260	Uttar Pradesh
	9	Maharashtra
	4473	

While noting the aforesaid contents, the Supreme Court has held as under:

"Certain claims have been made in para 13.3 of this writ petition setting out certain facts which need to be verified. After this petition was filed notices were issued to the Government of different States and they filed responses in each one of those cases stating the steps that have been taken by them in cases where there had been death or other kinds of violence resulting in injuries or loss of property. But in the nature of the circumstances of the case, it is very difficult for us to extend the decision of thek High Court of Delhi in Bhajan Kaur (supra) to all the States without making

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मामला क्रमांक ..... **सन्** 200

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

a detailed examination of the circumstances arising in each case. Such examination cannot be done by us. Therefore it would be appropriate for us to direct the High Courts of Delhi, Rajasthan, Orissa, Punjab and Haryana, Himachal Pradesh, Patna, Madhya Pradesh Allahabad and Bombay in the States of Delhi, Rajasthan, Orissa, Haryana, Himachal Pradesh, Bihar, Madhya Pradesh, Uttar Pradesh, Maharashtra and Goa to deal with the matter in respect of the allegations made herein in respect of the State falling in its jurisdiction by treating this writ petition as a petition filed in that High Court. These proceedings, therefore, shall stand transferred to the respective High Courts. A copy of the petition with Annexures and response of the respective State Governments shall be sent to the High Court for appropriate action."

(5) A plain reading of the said order shows that the Supreme Court while considering the judgment of Delhi High Court passed in case of Bhajan Kaur –v- Delhi Administration (supra) has noted down that the High Court of Delhi by its order dated July 5th 1996 held that in the expanded meaning attributed to Article 21 of the Constitution, it is the duty of

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मामला क्रमांक ..... **सन्** 200

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	the State to create a climate where members of the Society belonging to different faiths, caste and creed live together and therefore the State has the duty to protect their life, liberty, dignity and worth of an individual which should not be jeopardized or endangered and if in such circumstances the State is unable to do so, then it cannot escape the liability to pay compensation to the families of the victims killed during riots as his or her life has been extinguished in clear violation of Article 21 of the Constitution. Therefore the High Court directed payment of a sum of Rs.2 lakhs with interest. While noting so, the Supreme Court has directed the High Courts concerned to deal with the matter in respect of the allegations made therein in respect of the State falling in its jurisdiction by treating that writ petition as a petition filed in that High Court and those proceedings shall stand transferred to the respective High Courts."	

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मामला क्रमांक ..... **सन्** 200

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

(6) At this stage, learned counsel for the petitioners submits that the State of Madhya Pradesh has been re-organised and on date of decision of Supreme Court dated 16.3.2001 rendered in case of S.S Ahluwalia (supra), the State of Chhattisgarh was already formed and so far as the victims of the present case is concerned, they were residing in State of Chhattisgarh, therefore, petitioners pray for extending the benefit of the judgment in Bhajan Kaur (supra) to the State of Chhattisgarh, as it is a welfare State.

(7) Having considered the facts and circumstances of the case and material available on record, in the opinion of this Court, the present petitioners are entitled to have benefit of the judgment of Delhi High Court passed in case of Bhajan Kaur (supra) and accordingly the Respondents shall pay compensation of Rs.2 lakhs with 9% interest p.a. after adjusting the amount already paid to the dependents, within one

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मामला क्रमांक..... **सन्** 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

month from the date of receipt/production of a copy of this Judgment.

(8) So far as the other relief regarding damage of the house and motor cycle is concerned, petitioners are entitled to make a representation before the respondents and in case such a representation is filed, the respondents shall consider the same and pass a reasoned order within 3 months from the date of receipt of representation.

(8) It is made clear that in case the order passed by the respondents are adverse to the interest of the petitioners, then they are at liberty to apply afresh.

(9) The State would also submit report that after death of victims, whether any FIR was filed and whether any culprits were brought to the book in this incident. The report to that effect shall be filed within 3 months before the Registrar General for perusal in chamber.

50,000.

(33)

XI-HC—78

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मामला क्रमांक ..... **सन् 200**

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आदेश पत्रक (पूर्वानुबद्ध)

का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	This petition is partly allowed with the liberty/direction aforesaid. Certified Photocopy **Sd/-** **Fakhruddin** **Judge**	6/6/02